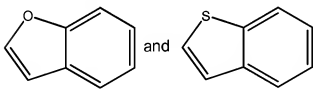


### REMARKS

Reconsideration is requested.

Claim 80 has been revised to exclude the non-elected subject matter. See In re Johnson and page 22, line 27, and page 82, line 12 to page 84, line 8, of the specification. The applicants note that the restriction requirement refers to "chalcogens" in defining the subject matter of the Examiner's Group IV in the Office Action of April 17, 2007 while also defining the subject matter of the Group as "bezofuran" and "benzothiophene". See page 2 of the Office Action dated April 17, 2007. The term "chalcogens" is not believed to be contained in the claims or the applicants specification. The term is believed to relate to Periodic Table group 16 (or V1) and the elements: oxygen, sulfur, selenium, tellurium, and polonium. See <http://www.chemistryexplained.com/Ce-Co/Chalcogens.html> (February 24, 2009).

Bezofuran and bezothiophene however have the following structures:



The proviso of claim 80 is believed to cancel non-elected subject matter without adding new matter. Specifically, the exclusion of the non-elected subject matter by the above amendments to claim 80 is believed to be supported by at least the court holding in *In re Johnson*, 194 USPQ 187 (CCPA 1977). The issue before the court in *Johnson* involved the written description support for a negative limitation added to the claims to exclude the subject matter of a lost count in an interference. Specifically, the *Johnson*

court held that a claim to a genus with a recital of a negative proviso that did not literally appear in the specification complied with the *description* requirement. The negative proviso had the effect of excluding from the scope of the claim two species originally disclosed in the specification as within the invention, and was inserted to avoid having the claims read on a lost interference count. The claim recited a formula O-E-O-E', wherein E and E' were both positively defined, and ended "with the provisos that E and E' may not both include a divalent sulfone group and may not both include a divalent carbonyl group linking two aromatic nuclei." The proviso literally excluded more than the two species. The court stated:

"The notion that one who fully discloses and teaches those skilled in the art how to make and use a genus and numerous species therewithin, has somehow failed to disclose, and teach those skilled in the art how to make and use, that genus minus two of those species, and has thus failed to satisfy the requirements of §112, first paragraph, appears to result in hypertechnical application of legalistic prose relating to that provision of the statute. All that happened here is that appellants narrowed their claims to avoid having them read on a lost interference count." See 194 USPQ 196.

In a manner similar to the appellant in *Johnson*, the applicants have excluded from the claims above the non-elected subject matter. No new matter has been added.

The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

Claims 81-173 have been canceled, without prejudice. Claims 174-259 have been added. Claims 80 and 174-259 are pending. Support for the new claims may be

found throughout the specification and previously-pending claims, such as is indicated in the following:

Claim 174 - now-cancelled claim 81, and Originally-filed claim 2; Claim 175 - now-cancelled claim 82, and Originally-filed claim 4; Claim 176 - now-cancelled claim 83, and Originally-filed claim 5; Claim 177 - now-cancelled claim 84, and Originally-filed claim 6; Claim 178 - page 19, lines 5 and 8; Claim 179 - now-cancelled claim 98, and Originally-filed claim 21; Claim 180 - now-cancelled claim 99, and Originally-filed claim 21; Claim 181 - now-cancelled claim 100, and Originally-filed claim 21; Claim 182 - now-cancelled claim 101, and Originally-filed claim 21; Claim 183 - now-cancelled claim 87, and Originally-filed claim 9; Claim 184 - now-cancelled claim 88, and Originally-filed claim 9; Claim 185 - now-cancelled claim 89, and Originally-filed claim 9; Claim 186 - now-cancelled claim 90, and Originally-filed claim 9; Claim 187 - now-cancelled claims 92 and 96, and Originally-filed claim s 14 and 19; Claim 188 - now-cancelled claims 92 and 96, and Originally-filed claim s 14 and 19; Claim 189 - now-cancelled claims 92 and 96, and Originally-filed claim s 14 and 19; Claim 190 - now-cancelled claims 92 and 96, and Originally-filed claim s 14 and 19; Claim 191 - now-cancelled claim 94, and Originally-filed claim s 16 and 19; Claim 192 - now-cancelled claim 94, and Originally-filed claim s 16 and 20; Claim 193 - now-cancelled claim 103, and Originally-filed claim 26; Claim 194 - now-cancelled claims 104-112, and Originally-filed claim 31; Claim 195 - now-cancelled claims 104-112, and Originally-filed claim 31; Claim 196 - now-cancelled claims 104-112, and Originally-filed claim 31; Claim 197 - now-cancelled claims 104-112, and Originally-filed claim

31; Claim 198 - now-cancelled claims 104-112, and Originally-filed claim 31; Claim 199 - now-cancelled claims 104-112, and Originally-filed claim 31; Claim 200 - now-cancelled claims 104-112, and Originally-filed claim 31; Claim 201 - now-cancelled claims 104-112, and Originally-filed claim 31; Claim 202 - now-cancelled claim 115, and Originally-filed claim 36; Claim 203 - now-cancelled claim 118, and Originally-filed claim 39; Claim 204 - now-cancelled claim 119, and Originally-filed claim 40; Claim 205 - now-cancelled claim 120, and Originally-filed claim 41; Claim 206 - now-cancelled claim 121, and Originally-filed claim 42; Claim 207 - now-cancelled claim 131, and Originally-filed claim 44; Claim 208 - now-cancelled claim 132, and Originally-filed claim 45; Claim 209 - now-cancelled claim 134, and Originally-filed claim 47; Claim 210 - now-cancelled claim 134, and Originally-filed claim 47; Claim 211 - now-cancelled claim 134, and Originally-filed claim 47; Claim 212 - now-cancelled claim 134, and Originally-filed claim 47; Claim 213 - now-cancelled claim 134, and Originally-filed claim 47; Claim 214 - now-cancelled claim 139, and Originally-filed claim 52; Claim 215 - now-cancelled claim 140, and Originally-filed claim 53; Claim 216 - now-cancelled claim 146, and Originally-filed claim 59; Claim 217 - now-cancelled claim 163, and Originally-filed claim 60; Claim 218 - now-cancelled claim 163, and Originally-filed claim 60; Claim 219 - now-cancelled claim 164, and Originally-filed claim 61; Claim 220 - now-cancelled claim 164, and Originally-filed claim 61; Claim 221 - now-cancelled claim 164, and Originally-filed claim 61; Claim 222 - now-cancelled claim 164, and Originally-filed claim 61; Claim 223 - now-cancelled claim 164, and Originally-filed claim 61; Claim 224 - now-cancelled claim 164, and Originally-filed claim 61;

Claim 225 - now-cancelled claim 164, and Originally-filed claim 61; Claim 226 - now-cancelled claim 164, and Originally-filed claim 61; Claim 227 - now-cancelled claim 164, and Originally-filed claim 61; Claim 228 - now-cancelled claim 164, and Originally-filed claim 61; Claim 229 - now-cancelled claim 164, and Originally-filed claim 61; Claim 230 - now-cancelled claim 164, and Originally-filed claim 61; Claim 231 - now-cancelled claim 164, and Originally-filed claim 61; Claim 232 - now-cancelled claim 164, and Originally-filed claim 61; Claim 233 - now-cancelled claim 164, and Originally-filed claim 61; Claim 234 - now-cancelled claim 164, and Originally-filed claim 61; Claim 235 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 236 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 237 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 238 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 239 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 240 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 241 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 242 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 243 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 244 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 245 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 246 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 247 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 248 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 249 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 250 - now-cancelled

claim 165, and page 26, line 12 to page 27, line 1; Claim 251 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 252 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 253 - now-cancelled claim 165, and page 26, line 12 to page 27, line 1; Claim 254 - now-cancelled claim 164 and page 27, lines 3-10, and Originally-filed claim 61 and page 27, lines 3-10; Claim 255 -now-cancelled claim 167, and Originally-filed claim 64, and pages 61-74; Claim 256 - now-cancelled claim 167, and Originally-filed claim 64, and pages 61-74; Claim 257 - now-cancelled claim 167, and Originally-filed claim 64, and pages 61-74; Claim 258 - now-cancelled claim 167, and Originally-filed claim 64, and pages 61-74; and Claim 259 - now-cancelled claim 168, and Originally-filed claim 65.

No new matter has been added.

The pending claims read on the elected subject matter.

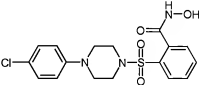
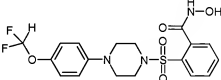
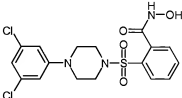
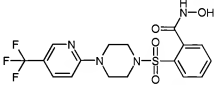
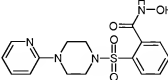
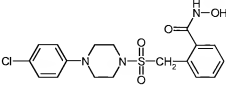
The Section 112, second paragraph, rejection of claims 80-84, 87-116 and 119-168 is obviated by the above amendments. The claims have been amended, without prejudice. Withdrawal of the Section 112, second paragraph, rejection is requested.

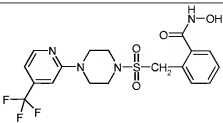
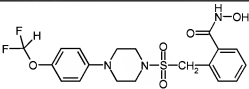
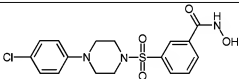
The Section 103 rejection of claims 80, 81, 84, 98, 101, 116, 119-129, 135, 141, 142, 145, 146, 155-166 and 168 over Owen et al. (WO 00/56704), is obviated by the above amendments. Consideration of the following and the above are requested along with the withdrawal of the rejection.

The Examiner's depiction of the structure of the reference on page 4 of the Office Action dated September 3, 2008 is believed to be from Example 30 on page 25 of the

reference as opposed to the Example 11 referred to by the Examiner on page 3 of the Office Action dated September 3, 2008.

The applicants submit that of the 64 examples provided in Owen et al. (see pages 20-32 therein), only the following examples are both N-hydroxybenzamides and include a piperazine group.

#	Owen et al.	Owen et al.	Structure
1	Example 11, page 22	N-hydroxy-2-[4-(4-chlorophenyl)piperazine-1-sulfonyl]benzamide	
2	Example 13, page 22	N-hydroxy-2-[4-(4-difluoromethoxyphenyl)piperazine-1-sulfonyl]benzamide	
3	Example 14, page 22	N-hydroxy-2-[4-(3,5-dichlorophenyl)piperazine-1-sulfonyl]benzamide	
4	Example 15, page 23	N-hydroxy-2-[4-(4-(trifluoromethyl)pyridin-2-yl)piperazine-1-sulfonyl]benzamide	
5	Example 19, page 23	N-hydroxy-2-[4-(pyridin-2-yl)piperazine-1-sulfonyl]benzamide	
6	Example 30, page 25	2-[4-(4-chlorophenyl)piperazine-1-sulfonylmethyl]N-hydroxybenzamide	

7	Example 35, page 26	N-hydroxy-2-[4-(5-trifluoromethyl pyridin-2-yl) piperazine-1-sulfonylmethyl] benzamide	
8	Example 36, page 26	2-{4-[4-(1,1-difluoromethoxy) phenyl] piperazine-1-sulfonylmethyl} N-hydroxybenzamide	
9	Example 64, page 32	3-[4-(4-chlorophenyl) piperazine-1-sulfonyl] N-hydroxybenzamide	

The applicants believe that when mapped onto the compounds of the present claims, these Owen et al. compounds have, as Q<sup>2</sup>: (1,2-phenylene); (methylene)-(1,2-phenylene); or (1,3-phenylene).

The applicants believe that none of these Owen et al. compounds have, as Q<sup>2</sup>, a group which corresponds to C<sub>5-20</sub>arylene-C<sub>1-7</sub>alkylene of the claims and neither the compounds of Owen et al. nor Owen et al. as a whole would have made the presently claimed invention obvious.

Withdrawal of the Section 103 rejection is requested.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned, preferably by telephone, in the event anything further is required.



WATKINS et al  
Appl. No. 10/509,732  
Atty. Ref.: 620-334  
Amendment  
February 26, 2009

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:                     /B. J. Sadoff/                    

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